



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED:06.11.2019
CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD) No.16018 of 2019

and

Crl.M.P(MD) Nos.9517 and 9518 of 2019

R. Manikandan ... Petitioner/Sole Accused

Vs.

1. The State through
The Sub Inspector of Police
D2 Sellur Police Station (L&O)
Sellur, Madurai District ... 1st Respondent/Complainant

2.Baskaran ... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to Call for the records in C.C.No.134 of 2015 on the file of the Judicial Magistrate No.II, Madurai and quash the same

For Petitioners : Mr.T.K.Gopalan
For Respondents : Mr.K.Suyambulinga Bharathi
No.1 Government Advocate(Crl.Side)

O R D E R

This petition has been filed to quash the proceedings in C.C.No.134 of 2015 on the file of the Judicial Magistrate No.II, Madurai , as against this petitioner.

2. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No. 1122 of 2013 for the offences under Sections 294(b), 324 and 506(ii) IPC, as against the petitioner and taken cognizance in CC No.134 of 2015. Hence he prayed to quash the same.

3. The learned Government Advocate(Crl.Side) would submit that some of the witnesses have been examined in this case.

4. Heard Mr.T.K.Gopalan learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate(Crl.Side) appearing for the first respondent.



5. It is also relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in **Crl.A.No.579 of 2019** dated **02.04.2019** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.**, as follows:-

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" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and, therefore, there was no prima facie case made out against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6. Recently, the Hon'ble Supreme Court of India held in respect of the very same issue in Crl.A.No.1572 of 2019 - Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held as follows:

"19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely



incorrect and uncalled for."

The above judgment is squarely applicable to this case and as such, the points raised by the petitioner cannot be considered by this Court under Section 482 Cr.P.C.

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7. In view of the above citations, the criminal proceedings against the petitioner cannot be quashed at its threshold and it has to be gone in to by full fledged trial. Therefore, the charges cannot be quashed at this stage and this criminal original petition is liable to be dismissed.

8. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.II, Madurai

2. The Sub Inspector of Police
D2 Sellur Police Station (L&O)
Sellur, Madurai District

3. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai

+1 CC to Mr.T.K.GOPALAN, Advocate (SR-96563[F] dated 07/11/2019)

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